

SCOTT A. SREBNICK, P.A.

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March 11, 2020

Via ECF

Honorable Paul G. Gardephe
United States District Judge
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007

**Re: United States v. Avenatti, No. S1 19 Cr. 373 (PGG)
Request to Postpone Probation Interview**

MEMO ENDORSED

The application is denied.

SO ORDERED:

Paul G. Gardephe
Paul G. Gardephe, U.S.D.J.
Dated: *March 11, 2020*

Dear Judge Gardephe:

I write to respectfully request that Mr. Avenatti's background interview with the Probation Office for his Presentence Report – currently scheduled for tomorrow, March 12, 2020, at 1pm -- be adjourned until after the resolution of his other pending criminal case in this district, which is scheduled for trial to commence on April 21, 2020. *See United States v. Avenatti*, No. 19-374-JMF (ECF No. 41). In the alternative, Mr. Avenatti requests that the PSR background interview be adjourned for thirty (30) days, so that we will hopefully have more clarity regarding the risks of the Coronavirus and the conditions at the MCC-New York.

On February 14, 2020, a jury convicted Mr. Avenatti in this case. The Court scheduled the sentencing hearing for June 17, 2020. According to the Probation Office, their deadline to conduct the PSR background interview of Mr. Avenatti is March 17, 2020.

In late February, a complete lockdown began at MCC-New York, which lasted approximately ten days, as a result of allegations that a weapon had been introduced into the facility. Attorney visits with inmates resumed only a few days ago. Yesterday, attorneys were not even permitted to bring papers with any writings on them into the attorney visiting room. There was a long delay for attorney visits.

The MCC lockdown led to even more cramped and unsanitary conditions at the jail. Inmates (including Mr. Avenatti) were permitted to shower only twice in 12 days. Many inmates lacked soap or hot water to wash their hands. Alcohol-based sanitizers are banned for use by inmates. Hot meals are being denied. Mr. Avenatti's cell was infested with rats. The jail reeks of urine. As of yesterday, Mr. Avenatti had not shaved in weeks. Meanwhile, across the country, public officials are declaring states of emergency as a result of the spread of the Coronavirus. Flights are being canceled. Schools are closing. New protocols are being

established for entry into federal courthouses. Health officials are uncertain of the actual risks. And, by all accounts, a prison facility poses among the highest risks of spread of infection.

Although the presence of an attorney is not required at the PSR background interview, which will last a few hours, undersigned counsel had made arrangements to travel from Miami to New York for that interview. However, given the uncertainty regarding the Coronavirus, the ease with which it spreads, and the documented unsanitary conditions at the MCC-New York, I am requesting that the PSR background interview be adjourned. There would be no prejudice to either the government or Mr. Avenatti as a result of an adjournment. Because Mr. Avenatti is facing trial in another criminal case in this district in less than six weeks, and because the sentencing in the instant case is not scheduled until two months later (June 17), it makes sense to simply avoid the unknown risks at this point and adjourn the PSR background interview until after the resolution of the other criminal case.

AUSA Robert Sobelman has advised that the government opposes this request.

Respectfully Submitted,

/s/ Scott Srebnick

Scott A. Srebnick

cc: (By ECF)

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